

1 TIFFANY & BOSCO, P.A.
2 Gregory L. Wilde, Esq.
3 Nevada Bar No. 004417
4 212 South Jones Boulevard
5 Las Vegas, Nevada 89107
6 Telephone: 702 258-8200
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8 Wells Fargo Bank, N.A.
9 10-74200

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UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA

In Re:

Debra V. Moore

Debtor

10-27082-mkn

Order No.: 43

Chapter 13

DECLARATION RE BREACH OF CONDITION

STATE OF SC)

COUNTY OF York)

)ss.

I, Teresa Diaz-Cochran, under the penalty of perjury of the United States, declare and state:

1. As to the following facts, I know them to be true of my personal knowledge, and if called upon to testify in this action, I could and would testify competently thereto.

2. I am an employee of Wells Fargo Bank, N.A., Secured Creditor herein, and am most familiar with the loan and the bankruptcy case.

3. The real property subject to the Deed of Trust is commonly described as 5328 Corbett St , Las Vegas, AZ 89130 and legally described as follows:

The land referred to in this policy is situated in the STATE OF NEVADA, COUNTY OF CLARK, CITY OF LAS VEGAS, and described as follows:
 LOT SEVENTY-NINE (79) IN BLOCK B OF THE RIDGE II. AS SHOWN BY MAP THEREOF ON FILE IN BOOK 88 OF PLATS, PAGE 9, IN THE OFFICE OF THE COUNTY RECORDER OF CLARK COUNTY NEVADA.

4. I have examined the document entitled "Order Regarding Adequate Protection", a copy of which was entered by the Court on March 14, 2011, and incorporated herein by reference. I represent my personal knowledge as to whether the Debtor has complied with the requirements of said Order.

5. Pursuant to the aforementioned Order, the Debtor would have fifteen (15) days from the date of this Declaration in which to cure the delinquencies due. If upon the 16th day, Debtor failed to so cure those delinquencies, the automatic Stay Order would be vacated and extinguished as to this Secured Creditor.

6. As of the date of this Declaration, the Debtor has not made the payments as required by the aforementioned Order. The Debtor is presently past due as follows:

2 Monthly Payments(s) at \$1,446.44	\$2,892.88
(March 1, 2011 - April 4, 2011)	
2 Late Charge(s) at \$65.18	\$130.36
(March 1, 2011 - April 4, 2011)	
1 Adequate Protection Charge(s) at \$1,157.75	\$1,157.75
(March 1, 2011 - March 20, 2011)	
Attorneys Fees	\$150.00
Total	\$4,330.99

7. Debtor is responsible for the subsequent payments that will come due as stated in the Adequate Protection Order.

PARTIAL TENDERS WILL NOT BE ACCEPTED

1 8. Due to Debtor's failure to timely and properly comply with the Order as set forth
2 hereinabove, Secured Creditor has been forced to incur additionally attorneys' fees to obtain relief from the
3 Stay Order to take possession of its real property.

4 9. These attorneys' fees are in addition to attorneys' fees incurred prior to the non-compliance
5 and are now owing to Secured Creditor from Debtor pursuant to the Deed of Trust.

6 10. Should the Debtor cure the default, the Debtor must forward the funds to:

7 **GREGORY L. WILDE, ESQ.**
8 **TIFFANY & BOSCO, P.A**
9 **212 South Jones Boulevard**
10 **Las Vegas, Nevada 89107**

11 I declare under penalty of perjury that the foregoing is true and correct.

12 
13
14 VP Loan Documentation

15 SUBSCRIBED and SWORN to before me

16 this 6 day of April, 2011

17 Teresa Diaz-Cochran

18 Notary Public in and for said
19 State and County

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21
22
23
24
25
26
JOSHUA M. PLUMMER
NOTARY PUBLIC
SOUTH CAROLINA
MY COMMISSION EXPIRES 8-12-2020



Entered on Docket
March 14, 2011


Hon. Mike K. Nakagawa
United States Bankruptcy Judge

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Wells Fargo Bank, N.A.
10-74200

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA**

In Re:

Debra V. Moore

Debtor.

BK-S-10-27082-mkn

MS Motion No. 32

Date: February 9, 2011

Time: 1:30

Chapter 13

ORDER RE ADEQUATE PROTECTION

Secured Creditor's Motion for Relief from the Automatic Stay having come on for hearing in the above-entitled Court, all appearances as noted on court record, and based upon all the papers and pleadings on file herein and good cause appearing therefor,

1 IT IS HEREBY ORDERED, ADJUDGED and DECREED that the debtor will cure the
2 post-petition arrearages currently due as follows:

3 4 Monthly Payments(s) at \$1,446.44	\$5,785.76
(November 1, 2010 - February 1, 2011)	
4 4 Late Charge(s) at \$65.18	\$260.72
(November 1, 2010 - February 1, 2011)	
5 Motion for Relief Filing Fee	\$150.00
6 Attorneys Fees	\$750.00
Total	\$6,946.48

7
8 The total arrearage shall be paid in six monthly installments. Payments one through five
9 (1-5) in the amount of \$1,157.75 shall be in addition to the regular monthly payment and shall be
10 due on or before the 20th day of the month commencing with the March 20, 2011 payment and
11 continuing throughout and concluding on or before July 20, 2011. The sixth final payment in the
12 amount of \$1,157.73 shall be paid on or before August 20, 2011.

13 IT IS FURTHER ORDERED, ADJUDGED and DECREED that the Debtor shall resume
14 and maintain the regular monthly payments in a timely fashion, outside of any Bankruptcy Plan,
15 beginning with the March 1, 2011, payment, on Secured Creditor's Trust obligation, encumbering
16 the subject Property, generally described as 5328 Corbett St , Las Vegas, ^{NV} ~~AZ~~ 89130, and legally
17 described as follows:

18 LOT SEVENTY-NINE (79) IN BLOCK B OF THE RIDGE II. AS SHOWN BY MAP
19 THEREOF ON FILE IN BOOK 88 OF PLATS, PAGE 9, IN THE OFFICE OF THE
COUNTY RECORDER OF CLARK COUNTY NEVADA.

20 IT IS FURTHER ORDERED, ADJUDGED and DECREED that if the Debtor fails to make
21 any payments as stated in this Order, or fail to maintain the regular monthly payments on Secured
22 Creditor's obligation, allowing the normal grace period, then Secured Creditor may file and serve
23 upon Debtors and Debtors' counsel, a fifteen (15) Day Notice Declaration Re Breach of Condition.
24 For each such Declaration Re Breach of Condition filed, there shall be assessed an attorney fees of
25 \$100.00, to be paid by the Debtors upon any reinstatement.
26

1 If upon the sixteenth (16th) day Debtors have failed to cure the delinquency, then Secured
2 Creditor may submit to this Court an Order vacating the automatic stay as to Secured Creditor, and
3 Secured Creditor may thereafter proceed with enforcing its Security interest in the subject Property,
4 pursuant to applicable State Law, and take any action necessary to obtain complete possession
5 thereof.

6
7 Submitted by:

8 TIFFANY & BOSCO, P.A.

9
10 By 

11 GREGORY L. WILDE, ESQ.
12 Attorneys for Secured Creditor
212 South Jones Boulevard
Las Vegas, Nevada 89107

13 APPROVED AS TO FORM & CONTENT:

14 Kathleen A Leavitt

15 By  2/28/11

16 Kathleen A Leavitt
17 Chapter 13 Trustee
18 201 Las Vegas Blvd., So. #200
Las Vegas, NV 89101

George Haines

19 By 

20 George Haines
21 Attorney for Debtors
22 1020 Garces Avenue
23 Las Vegas, NV 89101

24 Nevada Bar No. 009353
25
26

ALTERNATIVE METHOD re: RULE 9021:

In accordance with Local Rule 9021, counsel submitting this document certifies that the order accurately reflects the court's ruling and that (check one):

☐ The court has waived the requirements set forth in LR 9021(b)(1).

☐ No party appeared at the hearing or filed an objection to the motion.

☒ I have delivered a copy of this proposed order to all counsel who appeared at the hearing, and any trustee appointed in this case any unrepresented parties who appeared at the hearing, and each has approved or disapproved the order, or failed to respond, as indicated below.

Debtor's counsel:

☒ approved the form of this order ☐ disapproved the form of this order

☐ waived the right to review the order and/or ☐ failed to respond to the document

☐ appeared at the hearing, waived the right to review the order

☐ matter unopposed, did not appear at the hearing, waived the right to review the order

Trustee:

☒ approved the form of this order ☐ disapproved the form of this order

☐ waived the right to review the order and/or ☐ failed to respond to the document

☐ I certify that this is a case under Chapter 7 or 13, that I have served a copy of this order with the motion pursuant to LR 9014(g), and that no party has objected to the form or content of the order.

I declare under penalty and perjury that the foregoing is true and correct.

Submitted by:

/s/ Gregory L. Wilde, Esq.

Gregory L. Wilde, Esq.

Attorney for Secured Creditor

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11 UNITED STATES BANKRUPTCY COURT
12 DISTRICT OF NEVADA
13

14 In Re:

10-27082-mkn

15 Debra V. Moore

Order No. 43

Chapter 13

16 Debtor.

17 **CERTIFICATE OF MAILING OF**
DECLARATION RE BREACH OF CONDITION

18 1. On 4/13/11 I served the following document(s):

19 DECLARATION RE BREACH OF CONDITION
20

21 2. I served the above-named document(s) by the following means to the persons as listed below:

22 X a. ECF System

23 George Haines
24 ghaines@HainesandKrieger.com
25 Attorney for Debtor

26 Kathleen A Leavitt
courtsecf3@las13.com
Trustee

1
2 **X b. United States mail, postage fully prepaid:**

3 Debra V. Moore
4 5328 Corbett St.
5 Las Vegas, NV 89130
Debtors

6 ☐ **c. Personal Service** (List persons and addresses. Attach additional paper if necessary)

7 I personally delivered the document(s) to the persons at these addresses:

8 ☐ 1. For a party represented by an attorney, delivery was made by handing the
9 document(s) to the attorney's office with a clerk or other person in charge, or if no one is charge
10 by leaving the document(s) in a conspicuous place in the office.

11 N/A

12 ☐ 2. For a party, delivery was made by handing the document(s) to the party or
13 by leaving the document(s) at the person's dwelling house or usual place of abode with someone
14 of suitable age and discretion residing there.

15 N/A

16 ☐ **d. By direct mail (as opposed to through the ECF System)**

17 *(List persons and email addresses. Attach additional paper if necessary)*

18 Based upon the written assignment of the parties to accept service by email or a court order. I
19 caused the document(s) to be sent to the persons at the mail addresses listed below. I did not
20 receive, within a reasonable time after the transmission, any electronic message or other
21 indication that the transmission was unsuccessful.

22 ☐ **e. By fax transmission** *(List persons and fax numbers. Attach additional paper if necessary)*

23 Based upon the written assignment of the parties to accept service by fax transmission or
24 a court order. I faxed the document(s) to the persons at the fax numbers listed below. No error
25 was reported by the fax machine that I used. A copy of the record of the fax transmission is
26 attached.

1 ☐ **f. By messenger** *(List persons and addresses. Attach additional paper if necessary)*

2 I served the document(s) by placing them in an envelope or package addressed to the
3 persons at the addresses listed below and providing them to a messenger for service.

4 *(A declaration by the messenger must be attached to this Certificate of Service).*

5
6 **I declare under penalty of perjury that the foregoing is true and correct.**

7
8 Signed on : _____

4/13/11 